

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DENNIS GUY ERDMAN,

Petitioner,

CASE NO. 94-74600

-vs-

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

JIMMY STEGALL,

Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY

Petitioner appealed this Court's Order Denying Petitioner's Motions for 1) Relief from Judgment; 2) Leave to File an Amended Habeas Petition, and; 3) Review under the Pre-AEDPA Standards (Docket No. 115, Jan. 4, 2006), to the United States Court of Appeals for the Sixth Circuit. The Court indicated that this Court must first grant or deny Petitioner a certificate of appealability before it may hear his appeal.

"A certificate of appealability may issue under [§ 2253(c)(1)] only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Where a district court dismisses a petition on the merits, "[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Upon review of the record, reasonable jurists could not debate whether this Court was correct in its assessment of Petitioner's constitutional claims. This Court's Opinion thoroughly analyzed all of Petitioner's constitutional claims and found them to be without merit. This Court

found that: (1) the motion for relief from judgement was not timely filed and Petitioner did not allege an extraordinary circumstances justifying relief from judgment; (2) the claims in the original habeas petition differ from the claim in the amended habeas petition and Petitioner's amended petition challenges decisions made long after he filed his original petition; and (3) Petitioner's motion to review the amended petition under pre-AEDPA standards was moot in light of the denial of his motion to amend.

Accordingly, the Court DENIES Petitioner Certificate of Appealability.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: February 9, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 9, 2006.

s/Jonie Parker
Case Manager